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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Situation of human rights in Myanmar

Report of the Secretary-General

1. The present report is submitted pursuant to paragraph 19 of General Assembly resolution 49/197 of 23 December 1994 on the situation of human rights in Myanmar, in which I was requested to continue my discussions with the Government of Myanmar "in order to assist in the implementation of the present resolution and in its efforts to achieve national reconciliation, and to report to the General Assembly at its fiftieth session and to the Commission on Human Rights at its fifty-first session".

2. Since the adoption of the resolution, three rounds of talks have been held in Yangon and in New York between the Minister for Foreign Affairs of Myanmar and my representative, Mr. Alvaro de Soto, Assistant Secretary-General for Political Affairs. As I pointed out in my previous report to the Assembly (A/49/716), I consider the role entrusted to me in paragraph 19 of the above resolution as one of good offices, as distinguished from the fact-finding mandate assigned to the Special Rapporteur by the Commission on Human Rights.

3. The first round of talks took place in Yangon from 6 to 8 February, in advance of the consideration of the item by the Commission on Human Rights. In addition to his talks with the Minister for Foreign Affairs, U Ohn Gyaw, my representative met with the Chief Justice, U Aung Toe and with the Attorney-General, U Tha Tun, Chairman and Vice-Chairman respectively of the National Convention Convening Work Committee and, on the last day of his visit, with Lieutenant General Khin Nyunt, Secretary-1 of the State Law and Order Restoration Council. My representative also visited, at the Government's suggestion, Insein Central Prison. Repeated requests for a meeting with Daw Aung San Suu Kyi, who was then under a restraining order, were declined by the authorities. An account of my representative's mission was included in my report to the Commission. 1/

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4. Although the Government of Myanmar and my representative had agreed that a new round of talks would be held in the second half of April in New York to coincide with the presence of the Minister for Foreign Affairs at United Nations Headquarters for the Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, the talks did not materialize owing to the Minister's inability to attend the Conference. Following consultations with the Permanent Representative of Myanmar to the United Nations, agreement was reached for a new visit to Yangon from 13 to 19 August 1995. In the course of that visit, my representative held talks with the Minister for Foreign Affairs, U Ohn Gyaw and other government officials, and paid a courtesy call on General Maung Aye, Vice-Chairman of the State Law and Order Restoration Council. A meeting between my representative and Lieutenant-General Khin Nyunt, Secretary-1 of the Council, did not take place owing to the illness of Secretary-1. My representative also met with Daw Aung San Suu Kyi, whose restraining order had by then been lifted, as well as with several of her senior advisers, including U Aung Shwe, Chairman of the National League for Democracy, and also U Kyi Maung and U Tin Oo, who had been released from prison in March. In October, the League reinstated Daw Aung San Suu Kyi as its General-Secretary, re-elected U Aung Shwe Chairman, and elected U Kyi Maung and U Tin Oo Vice-Chairman of the party.

5. A further round of talks between the Minister for Foreign Affairs, U Ohn Gyaw, and my representative took place at United Nations Headquarters on 10 October 1995. My representative also met with the Vice-Chairman of the State Law and Order Restoration Council on 23 October 1995, taking advantage of his presence in New York for the fiftieth anniversary of the United Nations.

6. In his discussions with the Myanmar authorities, my representative raised a series of ideas, some of them already put forward in October and November 1994 by Under-Secretaries-General Mr. Marrack Goulding and Mr. Rafeeuddin Ahmed respectively, my representatives at the initial stages of my dialogue, aimed at addressing the concerns expressed in General Assembly resolutions 48/150 and 49/179. These ideas broadly covered the following: plans for the establishment of a multi-party democratic system and, in that context, the mandate, composition, procedures and functioning of the National Convention; the desirability of dialogue with Daw Aung San Suu Kyi and other political leaders and their situation, as well as that of those representatives elected in 1990 who were still deprived of their freedom; issues relating to human rights, including the desirability of granting the International Committee of the Red Cross (ICRC) free and confidential access to prisoners and detainees; and efforts towards the reintegration of the national races into the political life of the country.

7. Regarding the National Convention, which was in recess between 8 April and 27 November 1995, my representative raised matters concerning the selection of its members; the desirability for greater transparency and openness in its procedures; the objective laid down by the State Law and Order Restoration Council guaranteeing a leading role for the armed forces in the political life of the country; the manner in which the guidelines drafted by the National Convention would be translated into a Constitution proper; and the role that the representatives elected in 1990 would be accorded in the final drafting of the Constitution and the opportunity that would be afforded to the people of Myanmar

to discuss and approve the final text of the document. In its response, the Government maintained that that was an internal process, that reconciliation with the national races was almost complete with the "return to the legal fold" of 15 out of 16 armed groups, that it intended to pursue the course of action it had charted, having in mind the 12 political, economic and social objectives that had been set, in which the priorities were the attainment of peace and stability, and that it would be up to the members of the National Convention to propose how the Constitution would be finalized and enacted.

8. In the course of his visit to Myanmar in February, my representative stressed the importance that the international community attached to the lifting of the existing restraints on Daw Aung San Suu Kyi and to the release of other political leaders, in particular, U Tin Oo and U Kyi Maung, two senior leaders of the National League for Democracy, whom he had met on his visit to Insein Prison, as well as other representatives elected in 1990. My representative was informed that over 70 prisoners had been released since the beginning of the year, including 19 persons, whose names and particulars were given to him, convicted under the 1950 Emergency Provisions Act, the 1908 Unlawful Association Act of Section 122 (1) of the Penal Code. A number of those persons were representatives of the National League for Democracy elected in 1990 who had been included in a list of elected representatives reported to be in prison which had been handed to the Government by Mr. Rafeeuddin Ahmed when he visited Yangon in November 1994. The Government also mentioned that other prisoners would continue to be released once it considered that they no longer posed a threat to the security of the State. I was gratified to learn subsequently of the release in March of both U Tinn Oo and U Kyi Maung, as well as several other prisoners. I also warmly welcomed the news I received on 10 July of the Government's decision to lift the restrictions on Daw Aung San Suu Kyi. During his visit to Myanmar in August my representative, while welcoming the releases that had taken place since his visit in February, noted that there were reports of new arrests and that concern remained for those still in prison. Concern on this matter was also conveyed to my representative by Daw Aung San Suu Kyi.

9. During his second visit to Myanmar in August, and at subsequent meetings in New York, my representative, after recalling the provisions of paragraph 5 of General Assembly resolution 49/197, encouraged the Government to follow-up on the measures referred to in paragraph 8 above by opening a substantive political dialogue with Daw Aung San Suu Kyi and other political leaders whose representativeness derived from the results of the elections held in 1990. In reply, the Government pointed out that Daw Aung San Suu Kyi was now an ordinary citizen, that in 1990 there were as many as 230 political parties with which it would be impossible to establish a dialogue and that it would thus not be even-handed to single out only one of them, that nothing should be done to detract attention from the National Convention which was the designated forum for political dialogue, and that Daw Aung San Suu Kyi could make her views known through the delegates representing her party at the Convention.

10. In her meetings with my representative, and indeed also in her public statements, Daw Aung San Suu Kyi has repeatedly expressed her own and her party's readiness to engage at the earliest possible date in a substantive dialogue with the Myanmar authorities. In her view, the National Convention in its present form could not be regarded either as a valid process of

democratization or as a substitute for a genuine political dialogue, and in that connection she stated her willingness to discuss with the Government changes in the composition, functioning and working procedures of the National Convention which would enable "the elected representatives of the people" to express their views freely with regard to the proposed Constitution.

11. As mentioned in my report to the Commission on Human Rights, the Myanmar authorities in February indicated to my representative that they saw no difficulty in reaching an agreement with ICRC once they had ensured that the Memorandum of Understanding to be signed was not in contradiction with the internal legislation of Myanmar. When my representative again raised the matter during his visit in August, he was informed by the Minister for Foreign Affairs that a counterproposal had been conveyed to ICRC and that the door remained open for ICRC to pursue further discussions with the Government. However, the Government and ICRC do not seem to have succeeded in overcoming their differences.

12. My representative also referred on various occasions to reports regarding the continuing use of forced labour and suggested that the ending of such a practice would benefit Myanmar's international image. The Government, for its part, reiterated the need for outsiders to take into account the Myanmar and Buddhist culture of "contributing for the good of one's next existence" and the traditional practice of voluntary community work.

13. In the context of his discussions about the process of national reconciliation and the reintegration of the national races into the political life of the country, my representative referred to the military developments that had taken place in the Kayin (Karen) State earlier this year and about the situation of the Karens and the Karennis within Myanmar and on the Thai side of the border. The Minister for Foreign Affairs pointed out that the Karenni National Progressive Party had "returned to the legal fold" although no cease-fire agreement had been signed between the State Law and Order Restoration Council and that Party. The fighting that had been reported in the foreign media did not involve the forces of the State Law and Order Restoration Council but had been caused by a rift among the military commanders of the Karenni National Progressive Party. He also stated that the fighting that had taken place in the Kayin (Karen) State involving the Karen National Union and which had led to the loss of Manerplaw by the Union was the result of a schism in that organization which had led to the establishment of a rival force under the name of the Democratic Kayin Buddhist Organization, to which the Government had provided some assistance. The Foreign Minister expressed confidence that both the Karen National Union and the Democratic Kayin Buddhist Organization would soon "return to the legal fold".

Concluding observations

14. The Myanmar Government's decisions to lift unconditionally the restrictions placed on Daw Aung San Suu Kyi and to free, before the conclusion of their prison terms, several other political leaders are a positive development which I applaud. I hope that these steps will be followed by other measures along the lines suggested on my behalf to the Myanmar authorities, which would pave the way to the establishment of a multi-party democratic system. Crucial to this

effort would be the start of a substantive and productive dialogue with the political forces and national races, as recommended by the General Assembly, to address the underlying problems that were at the root of the political strife and armed conflicts which have afflicted the country in the past.

15. I am deeply appreciative of the willingness of the Government of Myanmar to continue its dialogue with me and my representatives, as reiterated at the last round of talks. Without underestimating the usefulness of this dialogue in itself, its success can only be assessed in terms of its results. I stand ready to intensify my efforts to bridge the gap in perceptions that separates Myanmar from important sectors of the international community and, should the parties so wish, to facilitate the process of dialogue and national reconciliation in the country.

Notes

1/ E/CN.4/1995/150.